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UNCLAS SECTION 01 OF 02 JAKARTA 000371

SIPDIS

SINGAPORE FOR SUSAN BAKER

SIPDIS
SENSITIVE

DEPT PASS TO USTR SCHWAB
DEPT FOR EAP/MTS, EAP/IPE, EB/TPP, EB/IPE
COMMERCE FOR JKELLY
USTR FOR BWEISEL
USTR FOR KELHERS AND RBAE
TREASURY FOR IA-BAUKOL

E.O. 12598: N/A
TAGS: [KIPR](#) [BEXP](#) [EINV](#) [ECON](#) [ID](#)
SUBJECT: INDONESIA SHOULD REMAIN ON WATCH LIST

REF: A: Jakarta 07 2091; B: Jakarta 07 2301; C: Jakarta 07 1813; D:
Jakarta 07 2797

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11. (SBU) Summary: Post recommends that Indonesia remain on the Special 301 intellectual property rights (IPR) Watch List for 2008. Although problems persist, Indonesia has continued to make limited improvements in the enforcement and protection of IPR since its upgrade to the Special 301 Watch List in November 2006. These include actions by the Government of Indonesia (GOI) to prioritize IPR prosecutions and improve the monitoring of optical disk factories, in addition to carrying out a successful string of IPR-related enforcement activities. End Summary.

Largest Counterfeit Drug Seizure Ever

12. (SBU) Indonesia made progress with IPR enforcement on several fronts in 2007. Notably, Indonesian authorities carried out the single largest operation ever worldwide against distributors of counterfeit pharmaceuticals (reftel A). This seizure took place less than a month after Indonesian police closed down two optical disk factories suspected of illegal production (reftel B). The past year also saw increased cooperation between the GOI and the pharmaceutical industry. The GOI worked successfully with a consortium of pharmaceutical manufacturers to fund sample testing of seized medicines and finance construction of a storage facility for seized goods. The GOI and the International Pharmaceutical Manufacturers Group (IPMG) also collaborated on a ceremony to publicly destroy seized drugs.

Attorney General Prioritizes IPR

13. (SBU) In 2007, Attorney General Hendarman Supandji expanded the mandate of Indonesia's elite prosecutorial task force to include IPR violations (reftel D). IPR prosecutions are now prioritized with other serious transnational crimes including terrorism, money laundering and human trafficking. The addition of IPR represents a significant institutional commitment by the Attorney General's Office to successfully prosecute IPR violators.

Progress in Optical Disk Monitoring

14. (SBU) During 2007, the Indonesian Ministry of Industry (MOI) Optical Disk Factory Monitoring Team (ODFMT) conducted fifty inspections of registered factories (including limited after hours inspections) resulting in issuance of thirteen warning letters to non-compliant factories. Fourteen production lines were sealed due to non-compliance and three remain sealed to date. A warehouse adjoining a factory suspected to have unregistered replicating equipment was also sealed. Exemplars have been collected from 65% of registered lines (the remainder were not operational at the time of inspection) and 122 have been submitted to the International Federation of the Phonographic Industry (IFPI) laboratory for forensic comparisons.

15. (SBU) The MOI has also assigned three full-time members to the ODFMT team to strengthen its efforts. Following raids on three optical disk factories which were sealed by law enforcement authorities (reftel C), the ODFMT suspended the production licenses of all three factories pending court decisions. In 2008, the owners of eleven factories that had non-compliance issues were summoned and warned to comply. Some institutional reluctance remains however to applying required sanctions against non-compliant factory owners. Some MOI officials complain that MOI's enforcement function conflicts with its role to foster and develop local industry. Meanwhile, the Secretary General of the Ministry of Industry has expressed interest to work with software distributors to legalize the Ministry's own use of software. (The Ministry of Trade is engaged in similar negotiations with Microsoft, but an agreement has not yet been reached.)

16. (SBU) The GOI still has much work to do, and private sector Special 301 submissions highlight legitimate criticisms of Indonesia's IPR regime. We agree that Indonesia still needs to

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enhance its enforcement efforts, including the successful prosecution of IPR violators. The GOI needs to improve Indonesia's IPR regulatory structure, particularly in the area of judicial reform (as underscored by the long-running dispute over the Intel Corporation trademark, for example.) And while we were pleased to see the GOI establish a National IPR Task Force, its performance to date has been disappointing. In consideration of the demonstrated progress Indonesia has made and its continued political commitment and cooperation to improve its IPR regime, we recommend that Indonesia remain on the Special 301 Watch List for 2008.

HUME